

Rule 13, Ariz. R. Crim. P.

INDICTMENT AND INFORMATION – Duplicitousness, in general: Each offense must be charged in a separate count.....Revised 11/2009

A duplicitous indictment is one that charges two or more distinct and separate offenses in a single count. Arizona law requires that each charged offense be charged in a separate count in an indictment, information, or complaint. See Rule 13.3(a), Ariz. R. Crim. P.¹ In addition, Article 2, § 23 of the Arizona Constitution guarantees every criminal defendant the right to a unanimous jury verdict.² “Since Arizona law requires that each separate offense be charged in a separate count, an indictment which charges more than one crime within a single count may be dismissed as duplicitous.” *State v. Schroeder*, 167 Ariz. 47, 51, 804 P.2d 776, 780 (App. 1990). Charging more than one act in a single count is forbidden because it does not provide a defendant with adequate notice of the charge against which he must defend, presents a hazard of a non-unanimous jury verdict, and makes a precise pleading of double jeopardy impossible in the event of a later prosecution. *State v. Davis*, 206 Ariz. 377, 389, ¶ 54, 79 P.3d 64, 76 (2003) [*citing State v. Whitney*, 159 Ariz. 476, 480, 768 P.2d 638, 642 (1989)].

¹ That subsection provides in part: “Provided that each is stated in a separate count, 2 or more offenses may be joined in an indictment, information, or complaint, if” certain conditions are met.

² That subsection provides in part: “In all criminal cases the unanimous consent of the jurors shall be necessary to render a verdict.”